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Commodities Plus, Inc. and Commodities  
Plus II, Inc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WALTERS LAND AND  
LIVESTOCK, LLC, a Washington  
Limited Liability Company,

Plaintiff and Counterclaim  
Defendant,

v.

PERDUE AGRIBUSINESS, LLC, a  
Maryland Limited Liability Company,

Defendant and Counterclaim  
Plaintiff.

PERDUE AGRIBUSINESS, LLC, a  
Maryland Limited Liability Company

Third-Party Plaintiff,

v.

WALTERS, INC., a Washington  
corporation, TOM WALTERS and  
JANE DOE WALTERS, husband and  
wife, MITCH CARNLINE, MATT  
BAKE, COMMODITIES PLUS, INC.  
a Washington corporation, and  
COMMODITIES PLUS II, INC., a  
Washington corporation,

Third-Party Defendants.

NO.

**NOTICE OF REMOVAL OF  
CIVIL ACTION**

**Benton County Superior Court  
Case No. 15-2-02385-1  
Case No. 16-2-00442-1  
[Consolidated]**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Third-Party Defendants

1 Commodities Plus, Inc., and Commodities Plus II, Inc. (collectively, “CP  
2 Defendants”) hereby remove the above-captioned action to federal court.

3 **I. BACKGROUND**

4 1. On October 19, 2015, Walters Land and Livestock, LLC (“WLL”) filed a civil action in the Superior Court of Washington for Benton County, styled  
5 *Walters Land and Livestock, LLC v. Perdue Incorporated*, Case No. 15-2-02385-  
6

7 1. This Complaint alleged breach of contract for Perdue Incorporated’s failure to pay for freight services WLL provided. This Complaint was never served.

8  
9 2. On January 12, 2016, WLL filed an Amended Complaint against  
10 Perdue Agribusiness, LLC (“Perdue”) in Case No. 15-2-02385-1. This Amended  
11 Complaint alleged breach of contract for Perdue’s failure to pay for freight  
12 services WLL provided. This Amended Complaint was served on Perdue.

13 3. On March 10, 2016, Perdue filed an Answer, Counterclaims and  
14 Third-Party Complaint in Case No. 15-2-02385-1. Perdue named as third-party  
15 defendants Walters, Inc., Tom Walters and Jane Doe Walters, and John Doe 1  
16 through 10. Perdue alleged breach of contract, conversion, and unjust enrichment  
17 against WLL and these third-party defendants.

18 4. On March 1, 2016, Walters, Inc. filed a civil action in the Superior  
19 Court of Washington for Benton County, styled *Walters, Inc. v. Perdue*  
20 *Agribusiness, LLC*, Case No. 16-2-00442-1. This Complaint alleged breach of  
21 contract and unjust enrichment for Perdue’s failure to pay for commodity services  
22 Walters, Inc. provided. This Complaint was served on Perdue.

23 5. On June 6, 2016, Perdue filed an Answer, Counterclaims and Third-  
24 Party Complaint in Case No. 16-2-00442-1. Perdue named as third-party  
25 defendants Walters, Inc., Tom Walters and Jane Doe Walters, and John Doe 1  
26 through 10. Perdue alleged breach of contract, conversion, and unjust enrichment

1 against WLL and these third-party defendants.

2 6. On June 28, 2016, the Court consolidated Case No. 15-2-02385-1  
3 and Case No. 16-2-00442-1 for all purposes, including trial, pursuant to a joint  
4 motion and stipulation.

5 7. On July 25, 2016, WLL, Walters, Inc., and Tom Walters filed an  
6 Answer to the Counterclaims and Third-Party Complaint in both Case No. 15-2-  
7 02385-1 and Case No. 16-2-00442-1.

8 8. On February 27, 2017, Perdue's Amended Counterclaims and Third-  
9 Party Complaint (the "Amended Counterclaims and Third-Party Complaint")  
10 were filed with the Benton County Superior Court.

11 9. In its Amended Counterclaims and Third-Party Complaint, Perdue  
12 added as third-party defendants Mitch Carnline, Jess Walters, Matt Bake,  
13 Commodities Plus, Inc., and Commodities Plus II, Inc. (collectively, the "New  
14 Defendants").

15 10. In its Amended Counterclaims and Third-Party Complaint, Perdue  
16 alleged that WLL, Walters, Inc., Walters, and the New Defendants violated the  
17 federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-  
18 1968 ("RICO").

19 11. Perdue's cause of action against the New Defendants under federal  
20 RICO is separate and independent from Perdue's causes of action against WLL,  
21 Walters, Inc. and Tom Walters alleged in its original Answer, Counterclaims and  
22 Third-Party Complaint in Case No. 15-2-02385-1 and Case No. 16-2-00442-1.

## 23 II. PROCEDURAL REQUIREMENTS

24 12. Perdue filed the Amended Counterclaims and Third-Party Complaint  
25 on February 27, 2017.

26 13. The CP Defendants will promptly give written notice to Perdue and

1 the Superior Court of Washington for Benton County that this action has been  
2 removed to federal court. *See* 28 U.S.C. § 1446(d).

3 14. By filing this Notice of Removal, the New Defendants, WLL,  
4 Walters, Inc., and Tom Walters do not waive, but rather expressly reserve all  
5 rights, defenses, and objections of any nature that it may have to Perdue's claims.

6 15. Third-Party Defendants Walters, Inc., Tom Walters, Mitch Carnline,  
7 and Matt Bake, and Plaintiff-Counterclaim Defendant Walters Land and  
8 Livestock, LLC consent to removal.

### 9 III. GROUNDS FOR REMOVAL

10 16. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331  
11 (federal question) because Perdue seeks civil remedies pursuant to 18 U.S.C. §  
12 1964, part of the federal RICO statute.

13 17. Perdue's asserted right to relief arises under 18 U.S.C. § 1964(c),  
14 which provides that "[a]ny person injured in his business or property by reason of  
15 a violation of section 1962 of this chapter may sue therefor in any appropriate  
16 United States district court."

17 18. The existence of federal question jurisdiction over any of Plaintiff's  
18 claims is sufficient to make the entire case removable. *See* 28 U.S.C. § 1441(c).

19 19. Perdue's causes of action against the New Defendants under the  
20 federal RICO statute are separate and independent claims which, if sued upon  
21 alone, could have been brought properly in federal court.

### 22 IV. CONCLUSION

23 WHEREFORE, Walters, Inc., Walters Land and Livestock, LLC, and Tom  
24 Walters hereby remove the above-entitled action, now pending in the Superior  
25 Court of Washington for Benton County, to the United States District Court for  
26 the Eastern District of Washington. Defendants reserve, and do not waive, any



1 objection they may have to jurisdiction, service of process, venue or any and all  
2 other defenses or objections to the Amended Counterclaims and Third-Party  
3 Complaint.

4 DATED this 28th day of February, 2017.

6 GARVEY SCHUBERT BARER

7 By 

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17 Attorneys for Third-Party

18 Defendants Commodities Plus, Inc.

19 and Commodities Plus II, Inc.

**CERTIFICATE OF SERVICE**

I, Patricia Shillington, certify under penalty of perjury under the laws of the State of Washington that, on March 3, 2017, I caused to be served on the person(s) listed below the foregoing NOTICE OF REMOVAL OF CIVIL ACTION.

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*Attorneys for Defendant  
Perdue Agribusiness, LLC*

<input checked="" type="checkbox"/>	United States Mail, First Class
<input type="checkbox"/>	By Legal Messenger
<input type="checkbox"/>	By Facsimile
<input type="checkbox"/>	By Federal Express
<input checked="" type="checkbox"/>	By Email

DATED this 3rd day of March, 2017.

  
Patricia Shillington

GSB:8467935.1